



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

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Arnold
Schwarzenegger
Governor

17 March 2009

CERTIFIED MAIL
7007 3020 0003 0353 3929

Dennis McBride, Director
Municipal Utilities
City of Redding
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Redding, CA 96049-6071

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0519 FOR JENNY CREEK ELEVATED SANITARY TRUNK SEWER SPILL, SHASTA COUNTY

Enclosed is an Administrative Civil Liability Complaint (Complaint), issued pursuant to California Water Code (CWC) section 13385, for violations of Waste Discharge Requirements (WDRs) Order R5-2003-0130 (NPDES No. CA0079731) that have occurred at the Jenny Creek Elevated Sanitary Truck Sewer. The Complaint charges the Discharger with civil liability in the amount of eighty two thousand five hundred dollars (\$82,500) for discharging raw sewage to Jenny Creek on 15 October 2007 and 22 October 2007.

Pursuant to CWC section 13323, the Discharger may:

- Pay the assessed civil liability and waive its right to a hearing before the Central Valley Water Board by signing the enclosed waiver (checking off the box next to item #4) and submitting it to this office by **15 April 2009**, along with payment for the full amount;
- Agree to enter into settlement discussions with the Central Valley Water Board and request that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and submitting both the waiver and either (a) a letter describing the issues to be discussed, or (b) a SEP proposal that contains the information described below to this office by **15 April 2009**; **or**
- Contest the Complaint and/or enter into settlement discussions with the Central Valley Water Board without signing the enclosed waiver.

If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations in the Complaint. This settlement will be considered final pending a 30-day period, starting from the date of this Complaint, during which time interested parties may comment on this proposed settlement by submitting information to this office, attention Stacy Gotham. Should the Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

As described in CWC section 13385(l)(1), a maximum of \$41,250 of this liability may be applied to a Supplemental Environmental Project (SEP). Any proposal for a SEP must include information showing how it meets the criteria of the State Water Board's February 2009 *Policy on Supplemental Environmental Projects*, and must include a project description, timeline, deliverables, and budget. In accordance with the Policy, the Central Valley Water Board may require the payment of staff oversight costs in addition to the base penalty, or may require the City to hire a third-party auditor to oversee expenditure of SEP funds. In the event that a SEP is approved, Central Valley Water Board staff will develop an ACL Order memorializing the settlement. This Order will then be subject to a new 30-day comment period, during which time interested parties may comment on the action.

If the Central Valley Water Board does not receive a signed waiver **by 5 p.m. on 15 April 2009**, then a hearing will be scheduled for the **11/12 June 2009** Central Valley Water Board meeting in Rancho Cordova. The Central Valley Water Board's Prosecution Team has proposed the enclosed draft Hearing Procedures to govern the conduct of such a hearing. Any objections to these draft Hearing Procedures must be received by Lori Okun, whose contact information is listed in the enclosed draft Hearing procedures, **by 5 p.m. on 30 March 2009**.

Any comments or evidence concerning the enclosed Complaint must be submitted in accordance with the deadlines contained in the enclosed draft Hearing Procedures, unless these deadlines are changed by the Central Valley Water Board's Adjudicatory Team, either on their own accord or upon request.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Regional Water Board's Internet website at http://www.waterboards.ca.gov/centralvalley/tentative_orders/. Copies of these documents can also be obtained by contacting or visiting the Regional Water Board's office weekdays between 8:00 AM and 5:00 PM.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Bryan Smith at (530) 226-3425 bsmith@waterboards.ca.gov or Stacy Gotham at (530) 224-4993 or sgotham@waterboards.ca.gov.

JAMES C. PEDRI, PE.
Assistant Executive Officer

SSG: sae

Enclosure: ACLC R5-2009-0519, proposed Hearing Procedures

cc: See Attached List

cc w/o encl: Ms Pamela C. Creedon, Executive Officer, CRWQCB, Rancho Cordova

Mr. Kenneth Greenberg, USEPA, Region 9, San Francisco
Mr. Reed Sato, Office of Enforcement, SWRCB, Sacramento
Mr. Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento
Ms. Lori Okun, Office of Chief Counsel, SWRCB, Sacramento
Ms. Emel Wadhwani, Office of Chief Counsel, SWRCB, Sacramento
Department of Fish and Game, Region 1, Redding
Department of Public Health, Office of Drinking Water, Redding
Mr. Barry Dewalt, Assistant City Attorney, 777 Cypress Ave, Redding
Mr. Bill Jennings, California Sportfishing Protection Alliance, Stockton
Shasta County Environmental Health Department, Redding